

Frank J. Rubino  
Corporation Counsel for the City of Yonkers  
40 South Broadway  
City Hall, Room 300  
Yonkers, New York 10701  
By: Rory McCormick (RM 3994)  
Associate Corporation Counsel

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
JASON WILLIAMS and LUCRESHIA AMORY,  
Individually and on behalf of her minor children  
ALFONZO SMART and SHAMANII EDGAR,

Plaintiffs,

-against-

**ANSWER**

FRANK CAMPANA Individually and in his official  
capacity, Officer HARAHAH (First Name Unknown)  
Individually and in his official capacity, YONKERS  
POLICE DEPARTMENT and THE CITY OF YONKERS.

Index No. 08 Civ. 4696 (CLB)

Defendants.

-----X  
Defendants, FRANK CAMPANA, Officer HARAHAH, YONKERS POLICE  
DEPARTMENT and THE CITY OF YONKERS, by their attorney, FRANK J. RUBINO,  
Corporation Counsel of the City of Yonkers, as and for its Answer to the Complaint  
respectfully allege as follows:

**ANSWERING THE FIRST CAUSE OF ACTION**

FIRST: Denies knowledge or information sufficient to form a belief as to the  
truth of any of the allegations set forth in the paragraphs designated "1", "2", "3", "4",  
"5", "16", "17", "18" and "21" of the Complaint.

SECOND: Denies knowledge or information sufficient to form a belief as to the  
truth of any of the allegations set forth in the paragraph designated "7" of the Complaint

and respectfully refers all questions of law to the Court; except admit that the City of Yonkers has a Police Department.

THIRD: Denies knowledge or information sufficient to form a belief as to the truth of any of the allegations set forth in the paragraph designated "8" of the Complaint and respectfully refers all questions of law to the Court; except admit that Frank Campana is a Detective employed by the City of Yonkers in the City of Yonkers Police Department.

FOURTH: Denies knowledge or information sufficient to form a belief as to the truth of any of the allegations set forth in the paragraph designated "9" of the Complaint and respectfully refers all questions of law to the Court; except admit that there is a Dennis Hanrahan employed by the City of Yonkers in the City of Yonkers Police Department.

FIFTH: Denies knowledge or information sufficient to form a belief as to the truth of any of the allegations set forth in the paragraphs designated "10", "11", "12", "13", "14", "15", "19", "22", "25" and "35" of the Complaint and respectfully refers all questions of law to the Court.

SIXTH: Denies upon information and belief, each and every allegation set forth in paragraphs designated "20", "23", "24", "26", "27", "28", "29", "30", "31", "32", "33" and "34" of the Complaint and respectfully refers all questions of law to the Court.

**ANSWERING THE SECOND CAUSE OF ACTION**

SEVENTH: Defendants repeat and reiterate each and every admission and denial heretofore interposed with respect to the paragraph re-alleged in the paragraph designated

“36” of the Complaint with the same force and effect as though fully set forth herein at length.

EIGHTH: Denies upon information and belief, each and every allegation set forth in paragraphs designated “37”, “38”, “39”, “40”, “43”, “45”, “46”, “47” and “48” of the Verified Complaint and respectfully refers all questions of law to the Court.

NINTH: Denies knowledge or information sufficient to form a belief as to the truth of any of the allegations set forth in the paragraphs designated “41”, “42”, “44” and “51” of the Complaint and respectfully refers all questions of law to the Court.

TENTH: Denies knowledge or information sufficient to form a belief as to the truth of any of the allegations set forth in the paragraph designated “49” of the Complaint and respectfully refers all questions of law to the Court; except admit that on or about October 26, 2007, a paper writing purporting to be a notice of claim was received in the Yonkers Corporation Counsel’s Office and that more than thirty (30) days have elapsed since the presentation of said notice and that the claim has not been adjusted.

ELEVENTH: Denies knowledge or information sufficient to form a belief as to the truth of any of the allegations set forth in the paragraph designated “50” of the Complaint and respectfully refers all questions of law to the Court; except admit that a statutory hearing pursuant to General Municipal Law Section 50-h has been conducted.

**ANSWERING THE THIRD CAUSE OF ACTION**

TWELFTH: Defendants repeat and reiterate each and every admission and denial heretofore interposed with respect to the paragraph re-alleged in the paragraph designated “52” of the Complaint with the same force and effect as though fully set forth herein at length.

THIRTEENTH: Denies upon information and belief, each and every allegation set forth in paragraph designated “53” of the Complaint and respectfully refers all questions of law to the Court.

**ANSWERING THE FOURTH CAUSE OF ACTION**

FOURTEENTH: Defendants repeat and reiterate each and every admission and denial heretofore interposed with respect to the paragraph re-alleged in the paragraph incorrectly designated “50” of the Complaint with the same force and effect as though fully set forth herein at length.

FIFTEENTH: Denies upon information and belief, each and every allegation set forth in paragraph incorrectly designated “51” of the Complaint and respectfully refers all questions of law to the Court.

SIXTEENTH: Deny all allegations in the “Wherefore” portion of the Complaint, except those conclusions of law which accordingly require no response; and except admit that Plaintiff purports to proceed as stated therein.

**AS AND FOR A FIRST DEFENSE:**

SEVENTEENTH: Defendants had probable cause to search plaintiff's apartment and conducted a lawful search of said apartment.

**AS AND FOR A SECOND DEFENSE:**

EIGHTEENTH: That plaintiffs arrests were not effectuated falsely, maliciously or without probable cause. On the contrary, there was reasonable and just cause for believing plaintiffs were guilty of criminal acts.

**AS AND FOR A THIRD DEFENSE:**

NINETEENTH: Defendants' actions were in good faith and for good cause including, but not limited to, legitimate, rational and appropriate governmental interests.

**AS AND FOR A FOURTH DEFENSE:**

TWENTIETH: Injuries and damages to plaintiffs were caused in whole or in part or were contributed to by the culpable conduct and want of care on the part of plaintiffs.

**AS AND FOR A FIFTH DEFENSE:**

TWENTY-FIRST: At all times relevant to the Complaint, defendants have been in compliance with all requirements under the laws cited by the Complaint.

**AS AND FOR A SIXTH DEFENSE:**

TWENTY-SECOND: The individual defendants are entitled to the defense of qualified immunity.

**AS AND FOR A SEVENTH DEFENSE:**

TWENTY-THIRD: Defendant Yonkers Police Department is improperly sued in this action when the Police Department is merely a department of the City of Yonkers.

**AS AND FOR A EIGHTH DEFENSE:**


TWENTY-FOURTH: The Complaint fails to state a claim upon which relief can be granted.

WHEREFORE, defendants request judgment dismissing the Complaint together with costs, disbursements, and attorneys' fees and any other relief the Court deems just and proper.

Dated: Yonkers, New York  
June 9, 2007

Yours, etc.,  
FRANK J. RUBINO  
Corporation Counsel  
Attorney for Defendant  
THE CITY OF YONKERS  
City Hall, Room 300  
Yonkers, New York 10701  
(914) 377-6256

By:

  
Rory McCormick (RM 3994)  
Associate Corporation Counsel

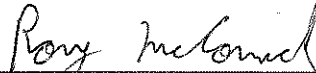
TO: Osorio & Associates, LLC  
184 Martine Avenue  
White Plains, New York 10601

**CERTIFICATE OF SERVICE**

I hereby certify that on June 9, 2008 I caused a true and correct copy of the foregoing ANSWER to be served by mail upon:

Osorio & Associates, LLC  
184 Martine Avenue  
White Plains, New York 10601

Dated: June 9, 2008  
Yonkers, New York

  
\_\_\_\_\_  
Rory McCormick